

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

UNITED STATES OF AMERICA

v.

CASE NO. 8:03-CR-77-T-30TBM

HATEM NAJI FARIZ

**RESPONSE IN OPPOSITION TO DEFENDANT
FARIZ'S MOTION TO EXTEND
VOLUNTARY SURRENDER DATE**

The United States of America by Paul I. Perez, United States Attorney, Middle District of Florida, hereby opposes the defendant's Motion to Extend Self-Surrender date, CR-1639, and states as follows:

A. STATEMENT OF FACTS

1. Following a guilty plea to one count of conspiring to make and receive contributions of funds, goods, or services to or for the benefit of Specially Designated Terrorists, in violation of 18 U.S.C. § 371, this Court sentenced Fariz to thirty-seven months imprisonment on July 25, 2006. CR-1632. The defendant was ordered to self-surrender for service of his sentence at an institution designated by the Bureau of Prisons as notified by the United States Marshals Service. Id.

2. Meanwhile, the defendant entered guilty pleas in the Northern District of Illinois, Case No. 04 CR 633, to one count of wire fraud, in violation of 18 U.S.C. § 1343, and one count of money laundering, in violation of 18 U.S.C. § 1956(a)(1)(A)(I). See Attachment A. On August 18, 2006, the district court in the Northern District of Illinois sentenced the defendant to fifty-one months' imprisonment and restitution in the

amount of \$1,414,020.68, to be served concurrently with his Middle District of Florida sentence. See Attachment B. The defendant was instructed to surrender for service on that sentence on October 3, 2006 to the institution designated by the Bureau of Prisons Id.

3. On September 1, 2006, the United States Marshals Service in the Middle District of Florida instructed the defendant to voluntarily surrender on October 3, 2006, before noon.

4. Approximately six days prior to his October 3, 2006, self-surrender date, the defendant filed a motion in the Northern District of Illinois to extend his surrender date to begin service of his Northern District of Illinois sentence until the first week of November because the "Bureau of Prisons will not accommodate the Muslim traditions [of Ramadan] in quite the same way as they are celebrated on the outside." See Attachment C. The district court in Northern Illinois extended the defendant's surrender date to and including October 10, 2006. See Attachment D.

5. On the other hand, prior to October 3, 2006, no motion requesting extension of the defendant's October 3, 2006, voluntary self-surrender date for his sentence in the Middle District of Florida was ever filed. Moreover, no order extending the defendant's October 3, 2006 voluntary surrender date for his Middle District of Florida sentence was entered by this Court. Nevertheless, the defendant did not self-surrender to the institution of confinement on October 3, 2006. Instead, the defendant waited until October 5, 2006, to file a motion to extend his surrender date to begin service of a sentence he was supposed to have begun to serve two days before.

6. Apparently based on the judicial order in the Northern District of Illinois, the United States Marshals Service has instructed the defendant to report to his designated facility by noon on October 11, 2006, to begin serving his Middle District of Florida term of incarceration.

7. However, having failed to convince the District Court Judge in the Northern District of Illinois to fully grant the relief he seeks, defendant Fariz has filed a motion in this Court to attempt to convince this Court to grant him until November to self-surrender. Our information indicates that Ramadan ends on October 24, 2006. No reasons have been given in support of a November 2006 surrender date.

B. ARGUMENT

The United States opposes this request. Notably, this request, filed virtually on the eve of his revised voluntary surrender date (with only three working days prior to October 11, 2006), is considerably late. The defendant has requested an extension of his surrender date, citing his current observance of the Muslim holiday, Ramadan. CR-1639. Certainly the defendant has known for quite some time exactly when Ramadan would commence and end. The defendant offers no explanation for his late self-surrender extension request.

At the time of sentencing in this case, the defendant asked to be allowed to self-surrender and the Court granted that request. Many defendants are not permitted to self-surrender. The "self-surrender" procedure has advantages in the criminal justice system, so long as it is not abused. It allows the defendant a certain amount of time to get his personal affairs in order, and it saves the United States Marshal's Service costs in housing and transporting a prisoner. But, the service of a sentence of confinement in

a federal criminal case is a critical part of the criminal justice system. The punishment follows conviction of a crime. The public has a right to expect that a defendant who receives a sentence of confinement will begin service of that sentence immediately, or at least as soon as the law permits. If a defendant is allowed to avoid confinement until it is convenient for him to begin service of his sentence, or until a date of his own choosing, that is an affront to the authority of the Court and promotes disrespect for the criminal justice system. The Court simply cannot allow the defendant to dictate the date upon which he prefers to begin service of his criminal sentence. The Court should not schedule a reporting date around a defendant's dates of personal preference or convenience. While an extension request due to a unique event such as sickness, death in the family, or some other humanitarian reason is, on occasion, reasonable, the defendant's request based on a claim that he cannot celebrate his religious holiday in quite the same way inside a prison as he could on the outside of the prison does not fit that criteria. Understandably, in this case, the defendant would like to celebrate this annual religious holiday in a manner of his own choosing but the same can be said for the personal religious activities of every incarcerated individual, and it could also be said for a wide variety of activities which a prisoner cannot perform in a manner of his own choosing or cannot perform at all while in prison. Unfortunately, due to the defendant's convictions and sentences, he will miss several important holidays, birthdays and other special events, just like any other convicted, incarcerated felon. That is the purpose and effect of confinement.

Nevertheless, the defendant will be allowed to observe Ramadan (as well as other religious holidays) while incarcerated. Bureau of Prison Program Statement Number P5360.90, § 548.10(a) states that the Bureau of Prisons "provides inmates of all faith groups with reasonable and equitable opportunities to pursue religious beliefs and practices . . . ". See Bureau of Prisons website at www.bop.gov. To that end, attached is a memorandum provided by the Bureau of Prisons regarding Ramadan Procedures for 2006. See Attachment E.

The district court in the Northern District of Illinois has directed the defendant to surrender on October 11, 2006 to begin serving his fifty-one month sentence. The United States Marshals Service has instructed the defendant to surrender on that same day to begin serving his Middle District of Florida sentence. This Court should decline to extend the defendant's voluntary surrender date.

There is never a good day to go to jail.

Accordingly, the United States respectfully requests that this Court deny the defendant's motion and order him to self-surrender by noon, October 11, 2006.

Respectfully submitted,

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U.S. v. Sami Amin Al-Arian, et al.

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CERTIFICATE OF SERVICE

I hereby certify that on October 5, 2006, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the following:

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